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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 FRESNO DIVISION
13

14 CARLOS GARAY,

15 Plaintiff,

16 v.

17 KILOLO KIJAKAZI,
18 Acting Commissioner of Social Security,

19 Defendant.
20

No. 1:20-CV-00265-BAM

STIPULATION AND ~~PROPOSED~~ ORDER FOR
EXTENSION TO RESPOND TO PLAINTIFF'S
LETTER BRIEF

21 The parties stipulate through counsel that Defendant, the Commissioner of Social Security
(the "Commissioner"), shall have an extension of time to file her response to Plaintiff's letter
22 brief in this case. In support of this request, the Commissioner respectfully states as follows:

23 1. Primary responsibility for handling this case has been delegated to the Office of
24 the Regional Chief Counsel, Region IX, in San Francisco, California (the "Region IX Office").

25 2. Defendant's response to Plaintiff's letter brief was currently due November 10,
26 2021. Defendant has not previously requested an extension of time for this deadline. Defendant
27 apologizes for filing this extension request one day late.
28

1 3. The Region IX Office currently handles all district and circuit court litigation
2 involving the Social Security program arising in Arizona, California, Hawai‘i, Nevada, and
3 Guam.

4 4. The Region IX Office employs 44 staff attorneys, of whom 30 are actively
5 handling civil litigation involving the Social Security program in the eight assigned jurisdictions.
6 Most of the attorneys who handle program litigation cases have additional responsibilities, such
7 as litigating in other practice areas described below, acting as Jurisdictional leads, reviewing the
8 work product of junior attorneys, conducting trainings, and participating in national workgroups.
9 In addition, because of attorneys taking unexpected leave or resigning, the Region IX Office has
10 had to re-assign dozens of cases and substitute in new counsel who have had to absorb these re-
11 assigned cases into their existing caseloads.

12 5. As of September 14, 2021, the Region IX Office had 404 district court briefs due
13 in the next sixty days in the jurisdictions it handles. In addition, the Region IX Office has nine
14 appellate cases pending for briefing.

15 6. In addition to this “program” litigation, the 30 staff attorneys in the Region IX
16 Office maintain other workload responsibilities, with most of them dedicating 40 percent or more
17 of their time to these workloads. The Region IX Office provides a full range of legal services as
18 counsel for the Social Security Administration, in a region that covers four states (including the
19 most populous state in the nation) and three territories. These other workloads include
20 employment litigation; civil rights investigations; bankruptcy matters; and requests for legal
21 advice on wide-ranging topics, including employee conduct and performance, reasonable
22 accommodation, hostile work environment, ethics, Privacy Act and disclosure, torts, property,
23 and contracts.

24 7. The undersigned attorney has 36 briefs due in district court cases over the sixty
25 days, in addition to managing this office’s legal opinion and advice workgroup, which currently
26 has 21 pending legal opinion requests and advice for guidance. Additionally, the undersigned
27 will be taking pre-planned four weeks of leave in order to move halfway across the country.

28 8. Due to the volume of the overall workload within the Region IX Office, neither the

undersigned attorney nor another attorney in the Region IX Office anticipate being able to respond by the current due date of November 10, 2021. Therefore, Defendant seeks an extension of 60 days, until January 10, 2022 to respond to Plaintiff's letter brief.

9. This request is made in good faith and is not intended to delay the proceedings in this matter.

WHEREFORE, Defendant requests until January 10, 2022, to file her response to Plaintiff's letter brief.

Respectfully submitted,

DATE: November 12, 2021

/s/ Benjamin Feld
BENJAMIN FELD
Attorney for Plaintiff
(as approved via email)

PHILLIP A. TALBERT
Acting United States Attorney

DATE: November 12, 2021

By s/ Sathya Oum
SATHYA OUM
Special Assistant United States Attorney

Attorneys for Defendant

ORDER

Pursuant to stipulation, and good cause appearing, Defendant's request for an extension of time to serve a response to Plaintiff's letter brief is GRANTED. Defendant shall serve a response to Plaintiff's letter brief on or before January 10, 2022. All other deadlines in the Court's Scheduling Order are modified accordingly.

IT IS SO ORDERED.

Dated: November 15, 2021

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE